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SUBJECT: 1267 COMMITTEE PROCEDURAL PROTECTIONS AND FAIRNESS

REF: A. STATE 65363

[1](#)B. MOSCOW 4497
[1](#)C. LONDON 3046
[1](#)D. BEIJING 7918

Classified By: AMBASSADOR JOHN R. BOLTON; REASONS: 1.4 (B), (D).

[1](#)1. (C) SUMMARY: USUN delivered demarche (REF A) to all other P-5 delegations April 27 - 28. P-5 delegations supported U.S. efforts to address &due process8 concerns as a way to strengthen the 1267 sanctions regime and to encourage more States to participate in the 1267 process. France and Russia emphasized the need for the Security Council to be proactive and take control of the issue. All delegations needed more time to study the U.S. paper, but France, Russia, and China had positive initial reactions, while UKUN reported that &they (London) like it.8 END SUMMARY.

FRANCE

[1](#)2. (C) USUN delivered the demarche to the French Mission on April 27 and emphasized that the U.S. paper should not be seen as a counter-proposal to the French document. USUN underlined the common U.S. and French goals in drafting these proposals and the need to work together. The French Mission promised to examine the U.S. paper and agreed that both the U.S. and France were working in &the same direction8 and needed to &maintain control8 over the process to strengthen the sanctions system, and ~ just react.8

[1](#)3. (C) The French Mission argued that the benefit of its &focal point8 proposal was that it removed States from a potentially &difficult position8 of having to deny their own citizens, de-listing requests. The focal point would allow individuals to petition the sanctions committee directly. According to the French, many of the European States most concerned with &due process8 wanted to shift the onus of decision-making from the national level to the sanctions committee in order to protect themselves.

[1](#)4. (C) As an initial reaction and without the time to study adequately the proposal, the French Mission asked several questions. In the U.S. proposal to encourage States to create national mechanisms for processing de-listing requests, how much communication would there be between the listed individual and the national mechanism to which he petitioned for de-listing? The French emphasized that ample communication was important. In response to our proposal to strengthen notification, the French stated that it may be a &dangerous path8 to pursue. Paris was wary of notification in general because it may expose the State to &judicial action.8

RUSSIA

15. (C) USUN delivered demarches to the Russian, Chinese, and UK Missions on April 28. The Russian Mission characterized the U.S. proposal as a good basis for discussion⁸ and told USUN that we're in the same boat.⁸ The Russians agreed that the Security Council must act to address due process⁸ concerns. Although Russian Mission officials had not received instructions from Moscow, they did provide some initial thoughts on our paper. The Russians agreed with the U.S. proposal to encourage States to create and/or strengthen national mechanisms for processing de-listing petitions. Regarding transparency and the proposal to encourage States to forward de-listing petitions to the Committee, Russia advised caution and argued the need to balance the rights of the individual with the rights of Member States.⁸ The Russians argued that there would be no reason for a State to inform the Committee when it examines a de-listing petition, as this function is an internal matter.⁸

16. (C) Regarding the proposal to expand the number of States permitted to forward a de-listing petition, the Russian Mission was concerned that a listed individual might send 15 petitions at once and flood the Committee. One Russian official commented that, life is more colorful than we can imagine,⁸ and the Committee must be careful when allowing listed individuals more avenues of access. Instead, the Russians proposed allowing the listed individual to send a petition to the Chairman of the Committee in his national capacity. (COMMENT: This proposal is worth examination. States that advocate for individual direct access could be satisfied, while technically the communication would remain solely between Member States. END COMMENT.)

CHINA

17. (C) The Chinese Mission was less forthcoming than other P-5 delegations. China agreed that the Security Council must address due process⁸ concerns, but emphasized the Chinese priority was to ensure that no double standard be used in the 1267 Committee. (COMMENT: Double-standard⁸ is a reference to the U.S. hold on ETLO/SHAT. END COMMENT.) The initial Chinese reaction to the U.S. paper was positive, especially with respect to our proposals on de-listing. That said, China raised concerns about our proposal to encourage States to create national mechanisms for processing de-listing requests and worried about expanding the number of States permitted to forward a petition to the Committee.

UNITED KINGDOM

18. (C) UKUN made the same points reported in REF C. They agreed on the need to be proactive in addressing due process⁸ concerns by increasing transparency and strengthening procedures. As reported in REF C, UKUN continued to argue that States should be obliged to submit all de-listing petitions to the Committee with a positive, negative, or neutral endorsement. UKUN commented that such a mechanism would be easier and not as long-winded⁸ as the U.S. proposal to expand the number of States permitted to forward a petition.

19. (C) In response to a question, USUN explained our intention to submit the U.S. paper to the 1267 Committee for consideration as the Committee begins discussions on revising listing and de-listing guidelines. UKUN supported this approach and agreed the 1267 Committee would be the most suitable venue.

COMMENT

¶10. (C) COMMENT: All delegations welcomed the U.S. paper. The French were clearly surprised by its comprehensiveness. After so many months of hearing a hard-line U.S. position, the French did not expect such robust proposals from Washington. The Russians demonstrated some internal division on this issue, with a Russian Mission legal adviser and political officer openly joking about their disagreements. The Russian Mission legal adviser seemed more eager to support the U.S. paper, while the Russian political officer would rather maintain the status quo. Especially problematic for the Russians would be the U.S. proposal encouraging States to forward de-listing petitions to the Committee. The Russians seemed to perceive this proposal as an intrusion into a State's internal affairs. At the same time, the UK argued this recommendation should become mandatory for States. Therefore, perhaps encourage⁸ would be a middle ground, which the U.S. could tout as a compromise.

BOLTON